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EXAMINER

SMITH, MATTHEW J

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/708,406
Filing Date: March 01, 2004
Appellant(s): GARCIA ET AL.

James L. Kurka
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 July 2007 appealing from the Office action mailed 13 February 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

U.S. Patent 4,794,534 (Millheim) issued December 27, 1988

U.S. Patent 6,456,902 (Streetman) issued September 24, 2002

U.S. Patent 5,864,772 (Alvarado et al.) issued January 26, 1999

U.S. Patent Application Publication 2005/0189142 published September 1, 2005

Declaration of James Belaskie

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 15-29, 32-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millheim (4794534) in view of Streetman (6456092).

Millheim discloses a method for drilling a wellbore at a wellsite having a drilling rig 10 with a downhole drilling tool (col. 4, line 7) comprising: selectively advancing the drilling tool operated according to a wellsite setup; collecting wellsite parameters from downhole sensors (col. 5, line 18); transmitting at least a portion of the wellsite parameters to an offsite control center 20; performing an analysis of the wellsite parameters (col. 10, lines 34-36); manually adjusting the wellsite set up from the offsite center 20 or surface control unit 18 based on the analysis of the wellsite parameters (col. 10, line 54); establishing an offsite communication link (col. 5, lines 31-34) between the offsite control center and the wellsite; establishing an onsite communication link

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between the surface control unit and a surface system of the wellsite (col. 6, lines 14-15); an offsite communication link between the offsite control center and the downhole tool (col. 7, lines 37-39); parameters transmitted via satellite 24 (col. 5, lines 39-43); the transmitting and adjusting steps performed in real time (col. 2, line 68); the transmitting and adjusting steps performed at intervals (col. 6, lines 60-63); the drilling tool being a measurement while drilling tool (col. 7, line 27); an offsite processor 61 adapted to generate an analysis of the wellsite parameters and make decisions; an offsite controller (col. 9, lines 57-68) adjusting the wellsite setup according to the analysis of the wellsite parameters; and the offsite center having a monitor (fig. 6) for displaying the wellsite parameters but not automatically adjusting from an offsite center.

Streetman discuss automatically adjusting wellsites' equipment from an offsite center based on analysis (col. 2, lines 50-57).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to automatically adjust wellsite equipment from an offsite center, as discussed by Streetman, in order to control a large number of wells from one site (Streetman, col. 6, lines 31-33).

Claims 11-14, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millheim in view of Streetman as applied to claims 1 and 19, respectively, above, and further in view of Alvarado et al. (5864772).

The combination discloses transmitting operating data to a remote location but not deploying a wireline tool with sensors into the wellbore.

Alvarado et al. show a wireline tool 10 with sensors transmitting data to a remote location.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a wireline tool to gather well data to be transmitted to a remote location, as shown by Alvarado et al., since it is well known to gather data from a wireline tool as well as a drilling tool.

(10) Response to Argument

A. The references teach the claimed invention.

The examiner contends the appellants' are looking at the references individually. The combination discloses automatic adjustment at a wellsite. Millheim teaches all the steps of the recited claims but not the step of automating the drilling operation. This step is performed manually at the wellsite by the well site engineer. Streetman is cited to show it is known to automate the step that the Millheim well site engineer performs manually. Streetman teaches automating the actions of the Millheim operator. Noting Streetman, column 6, lines 1-15 and 30-34, "control software 210 causes the controller device 200 to transmit a signal to the controller device 100 to shut in the well W"; and "remote site controller device 200 is employed as it will serve as a hub which will control a large number of wells W from a common site and act as a real time data host for

information transfer and display and a web server host." The examiner maintains making something automatic that is done manually is obvious.

B. The combination would automatically adjust the well site setup.

The examiner contends Streetman, column 6, lines 30-34 does automatically adjust the well site setup noting "remote site controller device 200 is employed as it will serve as a hub which will control a large number of wells W from a common site and act as a real time data host for information transfer and display and a web server host." The examiner maintains automating a task, as Streetman shows, that is done manually, as Millheim discloses, is obvious.

C. The combination does teach or suggest automatically transmitting the drilling command from the surface to the tool.

The examiner contends Millheim transmits the drilling command from the surface to the tool (column 5, lines 1-2) via the operator and Streetman teaches automating this operation in column 6, lines 1-15, "control software 210 causes the controller device 200 to transmit a signal to the controller device 100 to shut in the well W". The examiner maintains this teaching shows making something automatic that is done manually is obvious.

D. Appellants' argue improper combination due to non-analogous art and no motivation because the appellants' solution is to a well drilling problem as opposed to a production well problem solved by Streetman.

The examiner contends both patents used in the rejection are for hydrocarbon wellbore systems. Appellants' cite in 2005/0189142, paragraph [0002], "The invention relates generally to the field of hydrocarbon wellbore systems.", which includes drilling and production operations.. The purpose of the combination is for automating a known well process more so than solving a drilling problem.

Appellants' argue Streetman is non-analogous art (pages 9 [bottom], 10 [top, middle], 12 [top], 13 [bottom], and 14 [top]). The examiner contends appellant's discussion is more detailed than the claimed invention. There are no claims reciting any drilling parameters. No claims to torque, weight on bit, inclination, collar rpm, temperature, valve, switch, etc. are set forth. The examiner concludes the problem to be solved is not a drilling problem but a data transmission problem, which Streetman addresses. The analogous art argument attempts to describe a drilling operation as unrelated from a completion operation. The examiner disagrees. A drilling operation is always related to the completion operation. Wells are always produced through casing. A drill bit is chosen to create a borehole larger than the casing used in that same borehole. Further, the assignee, Schlumberger Technology Corporation, has numerous

patents that disclose subject matter to be useful in both open-hole and cased-hole applications.

For the reasons given above, the combination is considered properly combined and making something automatic that is done manually is obvious.

The declaration from James Belaskie is not convincing. Focusing on paragraph 5., the examiner notes the discussion of signals time frame and latency. However, the claims at issue do not limit the structure with any time frame or latency limitations. This discussion also highlights that the problem solved is not a drilling problem or a production problem but an automated well operation using data transmission, which Streetman addresses.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Matthew J. Smith".

Matthew J. Smith

Conferees:

Meredith Petravick

Jennifer Gay

Handwritten initials "MP" and "JG" in cursive script, corresponding to Meredith Petravick and Jennifer Gay respectively.